

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/ACC/UKR/3**

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## ACCESSION OF UKRAINE

### Additional Questions and Replies

The Governmental Commission on Ukraine's Accession to the WTO has provided the replies reproduced hereunder to the questions submitted by Australia. The letter "n" after the number denotes questions submitted after the Working Party meeting held on 27-28 February 1995.

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## I. ECONOMY AND FOREIGN TRADE MAIN DIRECTIONS

### Question 1n.

Could Ukraine provide greater clarification of the Government's intention to "reduce the negative trade balance by reducing non-essential imports" (Question 2, WT/L/20). In addition, could a progress report be provided on the work of the Government Commission created in September 1994 on "problems of import regulation".

### Reply 1n.

The Governmental Commission on Ukraine's accession to GATT made the analysis of the Agreement on Subsidies and Countervailing Measures it came to the conclusion that a number of problems solved by the Governmental Commission on Import Regulation needed further deep and detailed work in accordance with the rules and principles of the Agreement on Subsidies and Countervailing Measures. Such analysis will be taken into account in elaborating of Ukraine's Law on Subsidies and Domestic Support. The appropriate changes will be also made in the legislative acts with a view to bring the Governmental Commission's work on import regulation in respect of the above-mentioned questions to conformity with the rules and principles of the Agreement on Subsidies and Countervailing Measures.

Examples of non-essential import where the Commission could recommend restrictions:

- tobacco goods;
- alcohol products;
- coal;
- cars;
- luxury goods;
- agricultural products.

The main criterion for determining which goods are to be included on the list shall be injury caused to domestic producers during these last years of the market opening process and implementation of trade freedom.

Similar restrictions shall not be applied to goods which Ukraine can produce itself if import of these goods does not cause a substantial injury to national producers of analogous goods.

All these restrictions shall be introduced or changed on the basis of the Agreement on Safeguards of the Uruguay Round of multilateral negotiations, on the basis if the Agreement on Subsidies and Countervailing Measures of Uruguay Round and also on the basis of the Agreement on Interpretation of Article VI GATT 1994.

## II. ECONOMY WIDE MEASURES

### (a) Price Policy

### Question 2n.

Confirmation that "bedrock pricing" has now been abolished and replaced by "indicative pricing" is required. Also given that indicative pricing is seen as a temporary phase in the endeavour to create a fully market-driven price system for exports, could Ukraine outline the program of steps it is going

to take to achieve a market-pricing system over the next few years. Please provide a list of export items subject to indicative pricing. In addition, further information about domestic price policy, including Ukraine's plans for reform over the next few years.

Reply 2n.

In November 1994 Ukraine issued a Presidential Decree establishing a procedure for development of indicative prices for goods traded by Ukraine. The purpose is to increase currency earnings from exports, lower expenses on imports, and to prevent dumping.

Indicative prices, procedure of which application is established by appropriate Decree of the President have no relations to Ukrainian commitments before WTO with regard to customs valuation and application of anti-dumping tax that shall be introduced by Ukrainian legislation in accordance with appropriate Agreements of the Uruguay Round.

For the last one and a half year the concept of the foreign trade of Ukraine in the mind of domestic and international business has become inseparable from the concept of "allocation" and "licensing". Occasionally the term "indicative prices" has appeared in this rank.

Since the beginning of 1994, the formation of indicative prices has been performed by the Ministry of Foreign Economic Relations. Indicative prices are developed for a major group of goods from the list of goods subject to licensing with the purpose of monthly revision and publication.

An indicative price is the price at which our domestic goods are sold in the foreign market. This is the price for goods that by their quality meet Ukrainian standards, are supplied in the conditions of FOB or DAF (Deliver at Frontier) according to the INCOTERMS-94 Rules, and are paid for by a 45 day letter of credit, delivery of which is realized within the same months.

The indicative price, in reality, is the result of analysis of the world-market conjuncture and prices of these goods, the volume of sales of Ukrainian goods in these markets, international traders' prices for services, comparative characteristics of Ukrainian goods, the conditions of payments for the goods sold, and the trends of appropriate market dynamics.

For example, the indicative price for steel reinforcements is formed on the basis of information concerning current sale prices of this product in traditional markets (China, Turkey, Europe and others) with the deduction from these prices of the costs of shipping from Ukrainian Black Sea ports and of the traditional international traders' profit; with the certification of quality of Ukrainian manufacturing reinforcements (in the absence of international certifications); and with the condition of letter of credit payment.

Results of such calculations on separate markets are analyzed jointly by officers of the Ministry of Foreign Economic Relations of Ukraine, representatives of manufacturing enterprises and foreign organizations, and employees of specialized expert organizations at "conjuncture meetings" after which specific indicative prices are set.

The published range of prices takes into consideration their actual dispersal during deliveries of goods into different markets. A very representative price in this case is the indicative price for hot forged steel sheet (\$225-280 per ton in November) the lowest limit of which is optimal in sales in the markets of Asia and Africa and the highest limit reflects the level of prices for Ukrainian sheet in North America.

There are, of course, exceptions occurring when goods are to be sold at prices lower than the indicative price. It happens during the export of not-standard or low quality products, for example, during the sale of corroded, non-uniform length, and not packed according to standards reinforcements. In this case the exporter collects all demands for procurement, makes up an information table out of them and on the registration card the price is written at which it is possible to sell the reinforcement, even if it is lower than the indicative price.

There has not been a case so far in which someone has been refused a license or registration of a contract with valid arguments present. It is clear that the possibility to sell at a lower price does not apply to the attempts to sell quality goods at a price twice as cheap as its actual price.

In conclusion, it is necessary to notice that from the very beginning of the working out of indicative prices attention was focused on their function as being informative, their status as recommended for contracting price levels, and their implementation mechanism to be flexible and based on dialogue, that is, all the problems which may arise, are solved in a designated place, by designated people and with the direct participation of the exporter.

Indicative prices are set for goods of stable export from Ukraine, the volume of which have exchange earnings that significantly affect the economic situation of the state, as the whole, and on external payments balance in particular. Indicative prices are set in absolute figures in USD for goods, produced in compliance with current Ukrainian quality standards, for the FOB or DAF (delivered at frontier) delivery basis (according to INCOTERMS 90) and LC (letter of credit) payment terms.

Indicative prices are set based on the results of analysis of data of the level of traditional prices with a due allowance for weighted average freight from Ukrainian ports, the level of profits obtained by traditional international trading firms and with allowance for a quality index of domestic goods compared to goods of other manufacturers present in the market.

Indicative prices recommended for use in concluding foreign trade deals  
(by summer 1995)

Products	Export Prices	
	Price, \$/t	HS Code
Ferrous Metals		
Cast iron	116-120	720100000
Ferrous metal wastes	112-120	
Chemical Industry Products		
Carbamide (in bulk)	136-140	310210000
Dehydrated ammonium	176-180	281410000
Monoammonium phosphate (in bulk)	173-180	283521000
Ammonium sulphate	45-50	283329900
Methanol	350-380	290511000

#### Agricultural Products

Frozen meat with no bones	1900-2000	0201-0202
Dried fatless milk	950--1000	040210990
Salt (in bulk)	21-25	250100910
Pea (in bulk)	170-175	110319900
Margarine	610-670	151700000
Butter	1150-1200	040500100
Ethyl alcohol, 96%	600-630	220710000
Vegetable oil	610-620	151219910
Wheat	130-135	100190000
Casein	2500-2700	
Corn	135-140	100590000
Sugar	325-350	170199100

#### Import Prices

##### Fuel and Lubricants (CIS-production)

Gasoline A-93	175-180	27100000
Gasoline A-76	165-170	27100000
Diesel fuel (S-0.3)	155-160	27100000
Black oil (Sulphur content: 3.5%)	62-65	27100000

#### (b) Privatization

##### Question 3n.

As stated in the Working Party meeting, Australia agrees that further information of a transparency nature is required on the privatization process. It would be very useful if the Deputy Minister of Economy's explanations to the Working Party on privatization could be reproduced in written form. We attach an indicative list of additional issues related to privatization on which we would appreciate Ukraine's written responses.

##### Reply 3n.

According to the Law of Ukraine "On Privatization of Property of State Enterprises" (Article 1 item 1) privatization of property of state enterprises means alienation of national, republican or municipal property for the benefit of natural and non-state legal persons. Thus, privatization is acquisition for private ownership of enterprises, ventures, shops, plots and other subdivisions of enterprises which are detaching in the separate enterprises at the state and local Radas of People's Deputies by citizens and joint stock partnerships.

Privatization is one of the main directions of the economy reforming which includes intensive privatization of small enterprises and consecutive privatization of medium and large scale state enterprises. The purpose of privatization is to transfer state property to the private persons and economic agents so, that in state ownership remained property essential for performing state's functions, that is derive from the state ownership enterprises and leave only budget organizations and institutions.

Privatization of enterprises is carried out at the framework of the state privatization program which is an integral part of the program of creating market economy of Ukraine. The program envisage achievement of the following goals:

- change of ownership at the means of production with the purpose of their fruitful usage;
- creation of the non-state owners division as a base of diversified socially oriented economy;
- development of competition and monopoly restriction;
- attraction of foreign investments.

Program determines priorities and conditions of property privatization, assignment on privatization at the current year and forecast on changes of ownership structure at the future.

Main forms of privatization according to the conception of denationalization and privatization of enterprises, land and housing fund which was confirmed by Supreme Rada of Ukraine in 1991 are:

- purchase and sale of the state property at contest or auction;
- purchase and sale of stocks for the capital of enterprise at the contest, auction, stock exchange, on subscription;
- purchase of property which was leased with the right of purchase;
- purchase of state property which was leased;
- purchase of property by the staff;
- liquidation of enterprise according to the legislation of Ukraine and sale of its property at the contest, auction, exchange.

In order to provide effective process of privatization following modes of preparation of state enterprises for the privatization are Corporatization of enterprises;

- liquidation of enterprises which were declared bankrupt according to the current legislation;
- sanation of enterprises;
- commercialization of the certain enterprise's divisions.

Corporatization means transformation of the state enterprises, industrial associations on the state initiative into the open joint-stock partnerships. It means that corporatization is compulsory applied to all medium and large scale enterprises, that is enterprises which value exceeds certain level defined

by the state for this purpose. Stocks of enterprises after conducting their corporatization and transforming them into joint-stock enterprise up to the final privatization are owned by the state.

Privatized enterprises mean enterprises, which were privatized through one of the methods of privatization, and as a result of which there was a change in ownership.

According to Ukrainian legislation on privatization, privatization is divided into "small-scale enterprises" and "large-scale enterprises". The basic criteria is the value of the charter fund of the enterprise on May 1, 1992. The laws of Ukraine "On the Privatization of Small Government Enterprises (Small-scale Privatization)" or "On Privatizing the Property of Government Enterprises (Law on Large-scale Privatization)" then apply.

In order to determine the procedures for privatization, statutory acts (regulations, resolutions, decrees), developed by the State Property Fund of Ukraine and the Cabinet of Ministers of Ukraine, then apply. These are the basic acts:

- Procedures for the Submission and Examination of an Application for Privatization;
- Provisions on the Privatization Commission;
- Provisions on the Privatization Plan;
- Provisions on Applying Privatization Measures to the Property of State Enterprises;
- Provisions on Making Payments for Units Acquired through Privatization;
- Procedures for Transforming State Enterprises into Joint Stock Companies through Privatization.

The program for privatization provides for the following main aims:

- changing the type of ownership of the means of production with the aim of improving quality and efficiency;
- establishing a group of non-government property owners as a basis for a multi-layered socially-oriented economy;
- restructuring of the economy;
- stabilization of the economy;
- developing competition and restricting monopolies;
- attracting foreign investment.

According to the data of the Ministry of Agricultural Production at the state for May 1995 more than 400 state agricultural enterprises (20 per cent) were privatized and 18 per cent of processing and agroservice enterprises. At the base of reformed Soviet farms joint-stock ventures are created and at the processing and agroservice enterprises- open joint-stock ventures. In the collective sector (which is actually also the form of state enterprise) 96 per cent of the collective farms are already transformed into joint-stock ventures.

The program of market transformation of agriculture which envisages completion of processing and considerable part of agroservice enterprises and also Soviet farms is confirmed for 1995.

The system of the Ministry of Agriculture and Food includes the following state trading organisations:

Ukrtekhagroservis	exports - agricultural products imports - agricultural equipment - 70% - fuel and lubricants - 20%
Ukrprodresursyrovyna	exports - dairy and meat products imports - material and technical supplies for the processing industry - 30%
Ukragrokhim	exports - agricultural products imports - herbicides and pesticides - 70%
91 industrial complexes	wholesaling and retailing fruit and vegetables: exports - potatoes - fruit - vegetables imports - fruit - 5% - vegetables

In 1995, 18 of 109 fruit and vegetable complexes were privatized. The rest are planned to be privatized by the 31.12.1996.

The concern Ukrtekhagroservis and the association Ukragrokhim are planned to be privatized through auction by the year 2000.

Agro-industrial complex of Ukraine now includes: (a) according to the type of ownership-collective agricultural enterprises, Soviet farms- state enterprises; (b) agricultural (farmer) farms- not state-owned enterprises. According to the functional intention: processing, construction and other enterprises and organization which serve producers of the food commodities. Number of people working in the agro-industrial complex exceeds 4 million. Specific weight of the state enterprises amounts to 25 per cent, non-state- 75 per cent. In the non-state enterprises engaged 71 per cent of all agricultural workers, the area of the agricultural their lands amounts to 75 per cent, value of the capital production assets- 72 per cent, volume of the gross production- 70 per cent. During the period from 1991 to 1995 number of farmer non-state farms increased from 2,100 to 32,000.

At the state for the beginning of 1995 approximately 10,000 enterprises are remaining state-owned, volume of the gross production of this enterprises comes to 30 per cent, but according to the privatization program all these enterprises are to be privatized until the end of 1995.

At present, 18 fruit and vegetable wholesale and retail industrial complexes have been privatized through the creation of joint stock companies. They mainly trade in potatoes, and fruit and vegetables. They import 5 per cent of all goods.

According to current data, more than 400 state farms and other state agricultural enterprises (one fifth) have been privatized and as well as 18 per cent of processing and agricultural service enterprises. The state farms have been reformed to agricultural enterprises and joint stock associations, and processing and agricultural services enterprises have been changed to public corporations.



Approximately 9,000 collective farms, that is 96 per cent, have been reformed through the process of dividing the property into shares. The collective farms have been reformed into collective agricultural enterprises, peasants' associations, cooperative associations, and stock-holding companies.

State organizations of the agro-industrial complex do not specialize in import of food commodities. Import of the food commodities is carried out by the trade enterprises which were almost all privatized during the period of small privatization.

Ninety-one industrial complexes wholesaling and retailing fruit and vegetables now, to some extent, specialized in import of food, in particular, they importing potatoes, fruit and vegetables. Nine of these 91 industrial complexes wholesaling and retailing fruit and vegetables has been privatized to date. The above-mentioned imports compiled 5 per cent of the total volume of agricultural products turnover. In 1995, 18 of 109 industrial complexes wholesaling and retailing fruit and vegetables were privatized. The rest of them will be privatized till 31 December 1996.

Transition of enterprises from state to the private sector connected with the certain difficulties. That is why taking into consideration too small capital markets and also insufficiency of the foreign investments the Government decided that privatization of medium and large scale enterprise should be preceded by their corporatization. Process of corporatization is defined by the Decree of the President of Ukraine of June 15, 1993 "On Corporatization of Enterprises". Decree define that corporatization means transformation of the state enterprises, closed joint-stock ventures in which 75 per cent of the authorized fund are the state ownership, into the open joint-stock ventures. The purpose of this Decree is to achieve such state of economy when corporation is in state ownership but under the private supervision.

Next step after corporatization is the selling of the company to the private persons but for this purpose developed capital market which includes bank and exchange middlemen is necessary.

According to the Decree founder of the open joint-stock venture is the Fund of State Property and its regional departments. Duties of the Head of the joint-stock venture's board are placed on the head of the corporized enterprise.

According to the program for privatization of medium and large scale enterprises in 1995 based on data of the Fund of State Property, which is the state body responsible for the process of privatization in Ukraine, in 1995 should be privatized 8 thousand medium and large scale enterprises. At the state for May 1995 to the Fund came information from its regional departments on the process of privatization in 5,334 enterprises. Along with this 1,863 are at the stage of corporatization, 779 - rental enterprises which are transformed into open joint-stock ventures, 1,303- enterprises of the agro-industrial complex. In 1,389 enterprises work at the preparation to the privatization was not started. Besides this Fund of State Property wait for the proposals on privatization procedure at the 2,700 enterprises more.

At the beginning of May 1995 in the non-state sector of industry were working 4,400 (49 per cent) enterprises which specific weight in the total volume of production came to 38 per cent including 1,800 joint-stock ventures which specific weight in the non-state sector amounted to 41 per cent, volume of production- 60 per cent.

Through the first quarter of 1995 amount of agricultural (farmer) farms increased at 1,057 and to the first of April came to 3,000. They are using 729,000 ha of the agricultural areas or 1,8 per cent of their total area.

Through the first quarter of 1995 1,250 units were privatized in this amount: retail trade- 401, service- 201, industry- 312, construction- 74.

The definition of the terms "large, medium and small enterprises" is given in... documents. The privatization program provides that there should be 2 but not 3 categories, i.e., 2 categories: large-medium+ small enterprises.

### III.(A) IMPORT REGULATION

#### (a) Tariffs

##### Question 4n.

We would appreciate greater clarification of the procedures whereby changes to Ukraine's rates of customs duties must be approved by the Parliament. Also please provide clarification on the application of "full" tariff rates for personal consumption and/or designated product groups and export sources.

##### Reply 4n.

Tariff regulation in Ukraine in 1994 is being carried out on the basis of the Law of Ukraine "On Unified Customs Tariff" and the Resolutions of the Cabinet of Ministers of Ukraine #285 dated 3 May 1994 and #577 dated 22 August 1994 and #622 dated 10 August 1995.

The rates of the Unified Customs Tariff of Ukraine and the above-mentioned Resolutions are unified for all agents of foreign economic activity irrespective of the type of ownership, organization of economic activities and location, other than in cases stipulated in the Laws of Ukraine.

The Unified Customs Tariff of Ukraine is based on the internationally agreed norms and is being developed in order to conform to all generally agreed in the international practice norms and principles and customs rules. The goods classification scheme of the Unified Customs Tariff of Ukraine (nomenclature of goods) is based on the Harmonised Commodity Description and Coding System.

The imports are subject to duty when they are delivered to the customs territory of Ukraine.

Customs duties should be paid when the goods or other articles cross the customs border of Ukraine.

All the articles that are subject to customs control are classified according to the Unified Customs Tariff in 21 Chapters 21, 97 groups, 1241 commodity items and 5019 commodity subitems. Their names and number codes are unified with the Harmonised System.

The Unified Customs Tariff specifies three levels of the import duty rates:

#### 1. Preferential rates, including the exemption from duties, shall be applied to such goods:

that arrive from the countries which together with Ukraine are in customs unions or establish with it special customs zones:

that arrive from the countries with which there is an established special system of preferences based on the international agreements to which Ukraine is a member:

that arrive from developing countries and which belong to commodity groups 1-24 of the Harmonised System (HS).

2. Reduced customs duties shall apply to goods that arrive from the countries or economic unions which enjoy MFN treatment on the part of Ukraine, and also to goods that arrive from developing countries and fall within the commodity groups 25-97 HS.

3. The full (general) rates shall apply to all other goods.

The full customs rate equals 11.9 per cent of the customs value of the imported goods.

The reduced customs rate equals 6.3 per cent of the customs value of the imported goods.

For goods originating in Croatia, Slovenia, Taiwan, Israel and the Republic of South Africa, full import duty rates shall apply.

The reduced rates of the Unified Customs Tariff of Ukraine shall apply to the commodities originating in the countries to which Ukraine applies MFN treatment (Annex #2 of the Decree of the Cabinet of Ministers of Ukraine "On the Unified Customs Tariff" # 4-93 of 11 January 1993.)

Concerning the current status of the customs tariff regulations, in accordance with the Article of the Law of Ukraine "On the Unified Customs Tariff" the Customs Tariff Rada of Ukraine has been established and is now operating. The Resolution of the Cabinet of Ministers #62 of 7 February 1994 adopted the Provision "On the Customs Tariff Rada" and its staff. The main role of the Customs Tariff Rada is to consider the propositions regarding amendments to the current rates of the Unified Customs Tariff of Ukraine.

The Customs Tariff Rada is working on the propositions on the main directions and means of implementation of the customs tariff policy of Ukraine, on the amendments to the nomenclature of the Unified Customs Tariff of Ukraine, on the establishment, abolition or amendments to the import duty tariffs, on the granting of tariff privileges and preferences, application of the special, anti-dumping and countervailing tariffs, arrangement and the application of the necessary procedures that are prior to the application of the mentioned types of duties and also to other measures aimed at the protection of the domestic market of Ukraine.

The Secretariat of the Customs Tariff Rada gives a general analysis of the propositions from the ministries, departments and economic agents concerning the perfection of the customs tariff policy of Ukraine and refers it to the Rada's session.

However, the propositions on the abolition, establishment and changing the import and export tariffs, application of the special seasonal anti-dumping and countervailing duties, Ukraine's accession to the economic customs unions, establishment or abolition of the preferential and concessional taxation treatment in respect of the commodities that arrive from certain countries or their unions, shall be taken into consideration only in case when economic grounding of the aforesaid propositions is available.

The members of the Customs and Tariff Rada are authorised to make comments on the questions with regard to the customs tariff regulations in case when the economic grounding analysis on the changes in the customs regulations is available.

The decisions of the Customs Tariff Rada are issued in the form of a protocol which should be signed by the Chairman of the Customs Tariff Rada.

The decisions of the Customs Tariff Rada shall be submitted to consideration by the Cabinet of Ministers of Ukraine.

(b) Seasonal Customs Taxes

Question 5n.

As stated in the Working Party meeting, specifically on the seasonal taxes, while Ukraine is not applying them at the moment, what plans does Ukraine have to introduce them in the future, ie what would be their purpose, to what products might they need to be applied and in what seasons would they be applied? Please provide information on progress with the development of the specific administrative mechanism for collection of seasonal customs duties.

Reply 5n.

Current legislation of Ukraine is consistent with the WTO provisions on anti-dumping duty, which is based on a determined amount of penalty equal to the dumping margin. In accordance with the Law of Ukraine "On Unified Customs Tariff" (article 13) the anti-dumping duty rate may not exceed the difference between the competitive wholesale price of the good in question in the country from which it is exported at the time of export, and the declared price at the time of import into the customs territory of the country, or the difference in price between the dumped goods in Ukraine and the average price of the Ukrainian export of similar or directly competing goods at the time in question.

The application of anti-dumping, countervailing, special and seasonal duties, rules governing special/free economic zones is not regulated by national legislation.

(c) Special Duties

Question 6n.

As expressed at the Working Party, Australia has strong concerns about Ukraine's intentions on this issue, in particular as Ukraine's responses in the Working Party meeting and in reply 133 of WT/L/20 would seem to indicate that Ukraine sees "special duties" as a retaliatory measure for domestically perceived unfair treatment of Ukraine on trade and possibly other matters. There is no basis in the WTO for tariff (or other trade measure action) to be taken on this basis. We strongly encourage Ukraine to reconsider introducing such duties and to amend this part of its legislation accordingly.

Reply 6n.

See Reply 5n.

(d) Safeguards

Question 7n.

As noted in the Working Party meeting, it would seem that Ukraine sees Article XIX safeguards as providing very wide scope to protect domestic industry from imports, including through the draft law which would allow non-tariff import regulation through invocation of GATT Article XIX. We would like the opportunity to review this draft law in the Working Party.

Reply 7n.

Please see a draft of the Decree of the President of Ukraine that is annexed in the set of documents.

(e) Customs Processing Fee

Question 8n.

Ukraine has acknowledged that this fee as currently constituted contravenes GATT provisions and that it would intend to modify it to achieve conformity at the time of accession. We would encourage Ukraine to begin the necessary steps to achieve GATT consistency prior to accession including providing the Working Party with a timetable for doing this.

Reply 8n.

Timetable will be provided shortly.

Question 9n.

Regarding the excise tax structure, please provide a full list of excisable items and confirm that the excise tax is now applied in a non-discriminatory manner. Please provide details of any recent legislative changes.

Reply 9n.

According to the current legislation there is no current domestic 10 per cent excise tax on goods of Ukrainian origin.

The goods being imported to Ukraine are levied with excise duty at rates approved by the Resolution of the Supreme Rada of Ukraine No. 3951/12 of 4 February 1994, "On the List of the Goods to Which Apply Excise Duties and Their Rates". This list includes the subsequent amendments introduced thereto by the Resolution of the Cabinet of Ministers No. 526 of 5 August 1994.

The goods subject to excise duties include:

alcoholic drinks (HS numbers: 2207, 2208, 2204, 2205, 2203, 2206);

food essences (2101, 2209);

chocolate (1806);

coffee (0901)

delicacies of the meat and sea products (16010091, 16042010, 16042030, 16051000, 16052000);

sugar (1701);

tobacco products (24022000, 24009000, 24031000);

video hardware and television sets (85281011, 85281019, 85281030, 85281090, 85282010, 85282071, 85282073, 85282079, 852820900);

car, buses and trucks (8703);

tires (401110000);

jewellery (7113);

porcelain (69131000);

cut glass products (70139910, 70133991);

fur products (4302, 4303, 6506, 9200);

natural leather and the products thereof (41004-4109, 4203);

carpets (5701, 5702, apart from 57021000);

microwave electrical furnaces (851420910);

kitchenware made from metals coated with silver and gold (8215, 8603 21000).

According to the above-mentioned normative acts there is an excise duty rate, which differs from other rates for each of the mentioned goods. Taking this statement into account the definition of 10 per cent rate as a current domestic rate is not right. As a rule, the excise duty rate for goods of Ukrainian origin is higher than 10 per cent.

The excise on imported and domestic products is calculated differently in conformity with the current legislation of Ukraine. When calculating the amount of excise, the taxed turnover on imported products is determined according to the customs value of products, calculated in Ukrainian currency according to the exchange rate set by the National Bank of Ukraine, taking into account the total of tax and customs duties. The taxed turnover on domestic products is calculated on the whole-sale price of products, taking into consideration the excise.

Taking the above-mentioned into account the amounts of tax on analogous domestic and imported products are approximately equal, when current rates of excise are applied.

The new Ukrainian Law "On the Unification of Excise Duty Rates for Imported and Domestic Products" will be adopted shortly.

(f) Import Licensing

Question 10n.

We appreciate Ukraine's explanations about the essentially health and safety purpose of import licensing and the correspondingly limited nature of the product list provided. We will wish to examine Ukraine's response to the WTO import licensing questionnaire and if necessary its legislation, to ensure it is fully consistent with WTO rules.

Reply 10n.

In compliance with Article 18 of the Law "On Foreign Economic Activities", the import of only those goods that have such technical, pharmaceutical, phytosanitary and ecological parameters which meet the requirements of Ukrainian standards is permitted. Also, the import in and transit through the Ukrainian territory of secondary raw materials is subject to licenses. Pursuant to the Resolution of the Cabinet of Ministers No. 117 of February, 1994, the granting of the import or transit permit is entrusted to the Ministry of Nature and Environmental Protection.

The questionnaire will be answered shortly.

(g) TRIMS

Question 11n.

A large number of Ukraine's tax exemption programs and domestic subsidy policies require examination to ensure that they are consistent with the TRIMS agreement. For example, Ukraine will need to provide the Working Party with information about export performance criteria where these exist in any sectoral program of the economy, including as part of the tax exemption policy. In its response to Question 66 in WT/L/20, Ukraine indicated that it would commit itself to the TRIMS agreements provisions "as soon as economic circumstances permit". What is meant by this statement? Does Ukraine consider that it needs an exemption for TRIMS over and above the implementation period of the agreement itself?

Reply 11n.

We consider that there are no contradictions with the Agreement on Trade Related Investment Measures.

The current law on investment policy in Ukraine, in particular the Decree "On Foreign Investment Policy" stipulates that foreign investments, like any other economic activity, are governed by the provisions of the National Investment Policy with some exceptions specifically provided for in the Decree "On Foreign Investment Policy" and "other laws and international agreements" of Ukraine. The law of Ukraine allows the designation of areas where no foreign investors or enterprises are allowed or, if allowed, their activities are limited for reasons of national security (Decree "On Foreign Investment Policy," Clause 7). No such designations have been made to date.

Contributions of foreign investments into the ownership fund of an enterprise which has foreign investment will be exempted from customs and import taxes. (Decree "On Foreign Investment Policy.")

The creation of enterprises which include foreign investors will be governed by the same regulations that cover the establishment of domestic enterprises. (Clauses 19 through 26).

As to the trade in the internal Ukrainian market, it should be emphasized that particular measures of state regulation of prices for particular goods will apply on equal terms to both residents and non-residents. There are no minimum required investment levels in order to obtain national treatment.

Ukraine has no trade-related investment measures that are inconsistent either with the obligation of national treatment or the obligation of general elimination of quantitative restrictions. We regret the wording in Reply 66, which was misleading.

(h) Import Quotas

Question 12n.

Ukraine's non-reliance on GATT inconsistent import quotas at present is a welcome positive feature of its evolving trade regime. However the draft law which would allow non-tariff (ie. import quota) regulation in an Article XIX context is of concern. We would strongly discourage Ukraine from institutionalizing recourse to import quotas under Article XIX and would appreciate further elaboration of Ukraine's intentions in this regard.

Reply 12n.

The Presidential Decree "On the Measures to Implement an Integrated State Policy of Import Regulation" of September 21, 1994, established a special Governmental Commission to regulate import matters. It is entrusted with the development and implementation of the mechanism of application of import restrictions in conformity to the GATT/WTO principles and rules. At present, the Commission is drawing up a draft law which provides for a mechanism allowing for non-tariff import regulation to be effected in compliance with Article XIX of GATT.

At present there are no import quotas.

(i) Standards and Certification

Question 13n.

If Ukraine could provide information of a transparency nature on publication of SPS/Quarantine regulations, enquiry points, control and inspection procedures, risk assessment procedures, participation in other SPS organizations or agreements, etc, following the framework provided by Annex B of the WTO agreement on SPS regulations. On TBT we would appreciate detailed written explanation from Ukraine on measures in existence or to be taken which will ensure its capacity to implement and administer the TBT agreement. We also believe that Ukraine should consider the necessary steps to becoming a member of the Codex Alimentarius as soon as possible and certainly prior to accession to the WTO.

Reply 13n.

In compliance with the Laws of Ukraine, products to be imported and certified in Ukraine if they meet Ukrainian standards, shall be provided with an obligatory certificate showing compliance with the requirements of the standards of Ukraine as to safety relating to life, health, property of citizens and environmental protection. This certificate shall be approved by an authorized certification body of Ukraine designated by the State Standards Committee for each branch of industry. "The list of products required to be certified in Ukraine has been sent to trade representatives and embassies of Ukraine" The list is not yet complete, but covers metal working machinery, synthetic fibers, toys. All standards are published and are publicly available. Plans for developing standards are circulated to relevant ministries and are available upon request.

The Laws of Ukraine establish that the certification is a must for products for which the standards exist applying requirements regarding safety of life, people's health and their property as well as environmental protection.

The lists of products subject to certification in Ukraine are to be approved by the State Standardization Body acting as a National Certification Body and, then, registered by the Ministry of Justice. The certification of products included in the lists applies to similar import products. The main certification regulations are as follows:

1. To effect the certification of the product in the UkrCEPRO (State Certification System) system, an applicant (a foreign one included) must submit an application in due form to an accredited body (if foreign organizations have no requisites of the above certification body it may address the National Certification Agency).

2. The certification body will, no latter than one month after the receipt of the application, let the applicant know about its decision that must specify the following certification conditions:



2.1. The name and sign of a standard the requirements of which must be met by the applicant's products;

2.2. Selection, together with the applicant, of a particular manner (model) of certification.

2.3. Selection of the test lab to test products; samples.

2.4. Selection of an organization to supervise the production of certified goods (if required to, and if "yes", technical supervision will be carried out in compliance with the selected manner (model).

3. Solely the certification body has the right to grant the conformance certificate.

4. The conformance certificates issued by foreign organizations can be recognized valid solely and directly by certification bodies accredited in the UkrCEPRO system.

These foreign conformance certificates can be recognized valid proceeding from the results of tests carried out in test labs accredited in the above system.

The MEC, ICO standards and 18900 GOSTs (CIS Interstates Standards) are effective in Ukraine now. Approximately 40 percent of them are harmonized with the international standards. Some 60 percent of the standards drawn up and adopted in Ukraine are harmonized with international standards.

Products to be certified in the UkrCEPRO system

1. Household and similar electrical hardware, assembly units and parts.
2. Lighting appliances, assembly units and parts.
3. Manual electromechanical tools and portable worktables
4. Video-, television and display sets.
5. Household radio electronics.
6. Electrically-driven construction-and-assembly tools.
7. Food processing equipment.
8. Medical equipment.
9. Toys.
10. Synthetic detergents.
11. Miniature tractors and powered equipment.
12. Engines of tractors and agricultural machinery.
13. Metal-and-wood machining equipment.
14. Electrical welding equipment.

15. Electrical machines.
16. Bicycles, prams.
17. Security and fire alarm systems.
18. Telephone sets.
19. Cinema and photo equipment.
20. Kitchenware made from ferrous and non-ferrous metals, faience and porcelain.
21. Units of automation and mechanization of accounting operations.
22. Household mechanisms operating on solid, gaseous and liquid fuel.
23. Road vehicles.
24. Agricultural machinery
25. Inflammable electrical, equipment intended for its operation and repair.
26. Light sources.
27. Textiles for children
28. Food industry products
29. Photography chemicals
30. Petroleum products.

The national system of standards and certification of Ukraine does not provide for a ban or limitation on the use of any products if they meet current requirements of standards as to safety for life, health and environmental protection. There are currently no highly restricted or banned agricultural products.

Requirements as to standards and certification of imports do not differ from the requirements for domestic products.

A Ukrainian Information Centre of Standards, Certification and Technical Barriers to Trade shall be created on the base of the National Fund of Standards.

Foreign organizations may, if agreed upon with the State Committee of Ukraine for Standardization, Metrology and Certification, take part in the development of the standards of Ukraine if they are members of technical committees on standards. Any foreign organization may become a member of the Ukrainian Technical Committee on Standardization. To do so it must submit an application to the Technical Committee for consideration which will, then, present it to the State Committee for Standardization, Metrology and Certification for approval.

Yes, as a member of the International Electrotechnical Commission, Ukraine joined the International system of assessment of the results of electrical equipment testing and its conformity with

standards for safety. Ukraine acknowledges the results of tests made by testing laboratories accredited in this system and acknowledges certificates issued by the authorized bodies of the member-countries of this system (Germany, Hungary, Italy and others). For the Federal Republic of Germany the certification body DIN GOST TUV Berlin-Brandenburg has been accredited within the Ukrainian certification system UkrCEPRO. The drafts of treaties on cooperation between Ukraine and Germany ("TUV-Reilands" and "TUV-Nord"), Ukraine and France (Bureau VERITAS group), are under consideration now by the State Standards Committee.

On the basis of mutual bilateral agreements Ukraine acknowledges the national certification systems of all CIS countries, their certification bodies and testing laboratories accredited in these systems and their certificates.

The State Committee of Ukraine for Standardization, Metrology and Certification as a national body for standardization accomplishes measures to develop international cooperation in standardization and certification. Thus, there has been developed:

- the agreements on cooperation with the American National Standards Institute (ANSI), National Institute of Standardization NIST), German Institute for Standardization (DIN);
- in November 1994 "The Project on Canada's technical assistance in the development of the national standardization and certification system of Ukraine and the harmonization of the national standards of Ukraine with Canadian standards" and the project of "The Agreement on Cooperation with Standardization Council of Canada" have been sent to the Ministry of Foreign Affairs and International Trade and Ministry of Industry of Canada. These documents provide for the development of the joint rules, in particular, regarding the harmonization of the requirements of the Canadian and Ukrainian certification systems;
- the draft Agreement on Cooperation in the field of quality certification conformity assessments were sent to the national certification bodies of Israel, Poland and Cuba;
- the proposals from Bulgaria, Czech Republic and Slovakia as to mutual recognition of national certification systems are under consideration now.

The inter-state standards of the CIS countries (GOST) and the national Ukrainian standards (DSTU) are valid in Ukraine. About 40 per cent of inter-state standards (GOST) are harmonized with international standards. 60 per cent of the National Standards of Ukraine (DSTU) which have been approved by the Ukrainian State Committee for Standardization, Metrology and Certification (Derzhstandart of Ukraine) are harmonized with international standards.

The implementation of International Organizations' standards is being carried out in Ukraine by developing national standards on the basis of the international standards. The development of National Standards of Ukraine which are to be harmonized with ISO standards is being encouraged through budgeting for this work.

However the harmonization of National Standards of Ukraine with international standards is being performed along with the specific conditions of social, economic and technical development of Ukraine. That is why some requirements of international standards, testing procedures and separate technological processes failed to be implemented to date. To implement them Ukraine needs technical and methodological help.

### III.(B) EXPORT REGULATION

#### Export Subsidies

##### Question 14n.

Australia would appreciate greater details on the various exemptions from taxation, other duties and the value added tax which Ukraine provides to exporters. We need a clear picture of the effect and operation of this assistance in order to assess it against WTO export subsidy rules. A more detailed explanation of the operation and effect of the "special regime for exports" is also required. On agriculture, we expect to see Ukraine's claim that it has no agricultural export subsidies reflected in its draft schedule of concessions and commitments at the appropriate time.

##### Reply 14n.

The state budget of Ukraine approved for 1994 envisaged subsidies granted to the production of coal and gas. In connection with the implementation of the Program of the President, measures are being taken to cut subsidies to enterprises and to the population (liberalization of retail and wholesale prices), the released funds being directed to social protection of people of no means.

The program of state supports for strategic areas of the national economy and of encouragement for the export of domestic products is implemented by using state measures for supporting production and export rather than through the granting of subsidies. These state measures will include elimination of customs tariffs and value-added tax on Ukrainian exports; creating a unified currency exchange rate. Also, setting lower income taxes for the export of high-technology and high-quality finished products than the taxes on the export of raw materials and intermediate goods will be effected. At the same time, limited state funding is intended for basic scientific research and development of high level technological products. And, in addition, implementing marketing studies to encourage the access of Ukrainian products in foreign markets.

Ukraine will depend, first, upon the price competitiveness of Ukrainian manufacturers. Ukraine will support the operation of enterprises able to compete in the world market. Ukraine will encourage any activity of any enterprise by making use of economic methods that constitute and protect market economy fundamentals, e.g., economic freedom, private property and the principle of competition, and protection against misuse of power, monopolies and unfair competition. Priorities in industrial policy of the State will be subject to the strategy of structurally allocated investments, yet, at different stages of economic reform, the solution of tactical problems may necessitate the support of particular industrial sectors, branches or enterprises.

In implementing the tasks of the industrial development of Ukraine, the distribution of material and financial resources will be related, first and foremost, to provide for the national independence of Ukraine. Here, because of the internationalization and decentralization of a number of branches of economic activity and the reduction in the fraction of state demand on the gross domestic product, the emphasis will be placed on enterprises that have the opportunity to participate and be competitive in the world market.

The development and international competitiveness of Ukrainian industries will be promoted by creation of an export financial and insurance system. The absence of low-rate, easily-available credit creates a major problem for supporting exports. Measures aimed at establishing an improved system of state-granted export and investment guarantees will be worked out by the Government. It is necessary to create the conditions to overcome the barriers in foreign countries by increasing the

quality of Ukrainian goods. To this end, a system of quality certification and control will be formed and certificates issued for Ukrainian products that meet world standards.

The Government plans to create an efficient and easily accessible foreign trade data system.

The government will support the development of high- technology branches of the machine building industry (electronic and electrotechnical industries, control instrument industry, aircraft and spacecraft industries, automobile industry, bearing industry, machine tool industry, electric welding hardware industry), which is specified in Reply 1. When Ukrainian production in the machine tool, electrotechnical and other branches of industry reach world standards of quality, it will be easier for Ukraine to establish its position in the world market. The foreign trade policy will be aimed at increasing the percentage of machine building production which goes into export; 20 per cent at present, 50 per cent as a goal.

Established industries in the national economy, as opposed to new industries, should stand the market test. There will be only minor state interference, if any, in the operation of the markets for both traditional and nascent industries.

Industrial enterprises cannot count on state subsidies in the development of modern technologies and modernization of production. The Government aims to ensure the competitiveness of prices for the products of the metallurgical, chemical and wood processing industries and plans to attract foreign investments and technologies in those industrial branches that are not able to compete in the world market.

The Government makes every effort to render every industrial branch a competitive one by implementing integrated R&D conversion programs comprising 22 directions approved by the Resolution No.229 of March 25, 1994, "On the Use of the R&D and Production Potential of Military-Industrial Complex for Development of the National Economy". The R&D work is supported at the expense of the state budget and that of the enterprises of the Military-Industrial Complex. Commercial bank credits are used to support the reorientation of the production of the ex-defense enterprises. Further on, fundamental research will be supported by using the revenues of enterprises to form a special R&D support fund.

Under the Ukrainian Law "On the 1995 State Budget of Ukraine" the coal and gas industry shall receive direct subsidies only, direct at:

- capital investments
- restructuring of the coal and gas industry
- maintenance of mine rescue services
- geological survey work

The issue of establishing a coal industry stabilization fund is under consideration as well as the problem of sources of financing for this fund.

Memorandum on Economic Reforms in 1995 approved by the Supreme Rada of Ukraine and supported by the International Monetary Fund and the World Bank and also Law "On the State Budget of Ukraine for 1995" do not provide other stimulation measures of economy development through direct subsidies and preferential taxation.

Within the framework of the Economic Reform Program there was achieved a substantial liberalization of export through cancellation of quotas and licenses. Non-tariff restrictions are still valid only for grain and wastes of precious metals (until July 1, 1995). A liberalized regime of

equipment imports where domestic production does not satisfy Ukraine's demand is supported. The initiation of other key mechanisms for the increase of exports of machine-building products and some other sectors of high technology in machine-building is not provided for.

The process of Ukraine's accession to the General Agreement on Tariffs and Trade and entry into the World Trade Organization is to become an important factor in the process of agricultural reform. It is this process of Ukraine's accession to GATT/WTO together with financial assistance from major international financing organizations, which should become the decisive factor and the methodological basis for the restructuring of the agricultural sector. By this the economic policy of the Government of Ukraine will receive a universally recognized and proven guide to develop its agriculture.

The methods of developing and improving the foreign trade aspects of agricultural policy according to the principles of the GATT/WTO system are reflected in the GATT Agreement on Agriculture. In fact, this Agreement is one of the fundamental agreements (125 Member countries are party to this Agreement) is essentially of an economic nature. It represents the interest of all net exporters of agricultural products and takes into consideration many years of experience the development of the agricultural sector of 125 countries, providing for the domestic production of agricultural products and support and protection for producers, as well as agricultural production for export, ensuring their access to international markets.

Proceeding from the experience of the agricultural sectors of leading Members of the WTO and the generally accepted principles and disciplines of this organization, the main conditions for providing the development of the agricultural sector of Ukraine and occupying an appropriate position in markets are:

- a government system of support for agricultural production;
- implementing an economically-justified system of domestic market protection together with providing a minimum level of guaranteed access to the domestic market for products originating in other countries;
- a functioning system of government support and the development of agricultural exports according to the principles and disciplines of the GATT/WTO system;
- applying a harmonized system of sanitary and phytosanitary norms.

These are major elements of the GATT/WTO system requirements, without which it cannot be expected that Ukraine will obtain the guarantee of a right to an appropriate market share and predictable sales of agricultural products in the world market.

It is accepted that these conditions are necessary and obligatory for the functioning of the WTO, and naturally, for accession to GATT and the Agreement on Agriculture. Yet taking into account the fact that Ukraine has barely begun the process of fundamental economic reform in the agricultural sector and that there is an ongoing process of market reforms in the economy as a whole, the Government of Ukraine should provide for certain allowances during the process of accession and reach the appropriate understanding with potential trading partners within the GATT/WTO. To be more specific - the majority of methodologies used in the Uruguay Round and their economic criteria are inconsistent with those used in Ukraine and therefore Ukrainian indicators are not suitable for comparative purposes to determine agricultural economic potential. During the years, known as the base period in terms of the Uruguay Round, Ukraine was not an independent exporter or importer and foreign policy was based on principles different to those used today.

Taking this into account, Ukraine's accession to GATT/WTO and its participation in the WTO can be possible only with the development of a special accession program. This is not a request for special exceptions (although these are also needed) but an indication of the need to consider realistically the specific nature of Ukrainian economic development.

In the current situation, information on much of the economic data, which is used to describe the agricultural sector in various countries and their export potential, and is used to regulate the market, can only be obtained in Ukraine from conducting further economic analysis. Appropriate data can only be obtained from comparing economic forecasts and the results of the reform process, and using a data for 1997-98 as a minimum time frame for economic forecasts. Thus, intensive economic analysis of agriculture and related government programs, which takes the above into account and which is based on the rules and provisions of the Agreement, is most important for Ukraine. This will allow the establishment of the appropriate framework (legislative and economic) needed to develop a strategy for negotiations on Ukraine's accession to the Agreement on Agriculture of the Uruguay Round of GATT and to develop strategies to obtain economically-justified concessions and special exceptions for the period of accession, for the period required for economic stabilization and successful implementation of agricultural reform. Also, Ukraine is ready to participate in negotiations on the following aspects of the Agreement at the initial stage of negotiations and has no reservations about doing so, it is also important that there be allocated a certain time period for the development of regulatory documentation, which are harmonized with international standards, certifying agricultural products, and ensuring adherence to sanitary and phytosanitary rules and regulations.

The Government has great interest in preparation and implementation of government domestic support programs to agricultural producers according to the principles and provisions of the Agreement on Agriculture, in particular:

- developing, in the future, a program of support for agricultural producers;
- defining the real level of government subsidies to agriculture, and analysing economic data on agricultural support for 1992-1994, defining the level of domestic support, which is to be regarded as the basic level by the WTO for purpose of accession and as a base level for further reductions;
- the preparation of proposal for the development of export subsidy programs, conducting an analysis of the current system of export support and its compatibility with the requirements of the Agreement;
- developing parameters for support and export subsidy in order to begin negotiations for the transitional period before reductions are implemented.

#### IV. OTHER POLICIES

##### (a) Agriculture

###### Question 15n.

As stated in the Working Party, Australia believes that much more information is required about the Government's policy reorientation and both regulation and deregulation in the agriculture sector. This will need to encompass privatization of both land and of production and processing capacity, remaining state trading organizations and the way in which they are operating in individual product areas, the extent to which production and export plans continue to exist, the government's existing programs

and future intentions to providing assistance to farmers (large and small scale) and to farm processing industries, particularly in the context of the Government's export ambitions and import reduction program as it relates to agriculture. We would also like to know more about the so-called "agro-industrial complex"; and its relationship with the Ministry of Agriculture.

Reply 15n.

See Reply 3n.

(b) Industrial policy

Question 16n.

Document WT/L/20 makes several references to the transformation of the military industrial complex without providing needed clarification of this process. Could Ukraine elaborate on the reorientation of industrial policy, including the roles to be retained by the Government. Further details of industrial assistance programs by sector are also required.

Reply 16n.

An integral part of economy reforming is cancellation of system of state orders and state contracts (including those concluded for foreign and trade ends). Exclusion is strictly outlining own needs of the Government which shall be satisfied through tenders. The Resolution of the Cabinet of Ministers of Ukraine No 312 of April 28, 1995, "On Procedure of Products Purchases Organization for State Needs" established that not less than 50 per cent of products purchases (fulfilment of works, services) including agricultural products purchase that is concluded by state customers through budget funds are carried out on competitive base.

It is proposed for Reform Program fulfilment to keep funds transfers to enterprises of agricultural products processing, within the framework of budget assignments; to revise issue on credit emission provided by the Presidential Decree of May 22, 1995, related to debt between enterprises; to keep from granting funds for debt interoffset between enterprises and to permit enterprises directly to consider this issue including the close of those, which are bankrupt.

(c) Services

Question 17n.

As part of the supplementary document on Services and TRIPS which Ukraine has undertaken to provide, Australia would be grateful if the following areas could be covered in detail on services. Firstly, regarding the activities which can only be carried out by entities licensed by the Cabinet of Ministers, are foreigners entitled to participate in these sectors and under what relevant regulatory frameworks? Secondly, whether in the light of the response to Question 249 it would be correct to assume that Ukraine would intend to submit a draft schedule of commitments in services containing no limitation on market access and national treatment for most of its services sectors. Thirdly, we require an outline of the regulations covering imports of financial, telecommunications, health, education and professional services. Reply 248 only touched upon some professional services so the document should cover the other services sectors we have requested. For professional services, accountancy, engineering and legal services in particular should be covered. We would also want to know the regulatory conditions governing the participation of foreign firms in all of these sectors. Fourthly, supplementary information covering the temporary entry and stay of executives and senior managers as infra-corporate transferees, independent executives, service sellers and specialists is required.



Reply 17n.

The Ministry of Statistics of Ukraine processes the data from state statistics reports on foreign trade.

According to the reports submitted by Ukrainian enterprises, agencies and organisations, the total volume of goods exported, including raw materials for the production of exports and the products obtained from them, in 1994, was 19,304 mln. US dollars, (in FOB terms) the volume of imports was 10,746.2 mln. US dollars (in CIF terms).

The total volume of services exported in 1994 was 1334.3 mln. US dollars and imports were 309.4 mln. US dollars. The above figures include exports of construction services (15.2 mln. US dollars), whereas imports were 33.6 mln. US dollars.

The total increase in the volume of direct foreign investment into Ukraine during 1994 was 147.5 mln. US dollars. Analogously, the increase in Ukrainian investments directly into foreign economies during that period was \$5.4 million.

The Ministry of Statistics may provide the above information quarterly. Data for the first quarter of 1995 shall be compiled in May 1995.

Data on the purchases made in 1994 on the national, regional, and local levels, which were financed from the state budget, as well as on the budgetary planning for these purchases in 1995, should be requested from the Ministry of Economy and the Ministry of Finance of Ukraine.

The percentage of communication services in the gross domestic product (GDP) was 0.78 per cent in 1993, 1.43 per cent in 1994, and no data yet for the first quarter of 1995.

The percentage of persons employed in the communications sector from the total number of persons employed was 0.61 per cent in 1993, and 0.65 per cent in 1994.

Revenues from telecommunications services:

Revenues in billion karbovantsi:	1994	First quarter of 1995
Long-distance calls	3,467	322.7
International calls	2,236	160.2

The balance of payments:

Balance of payments	1994			1995		
(in millions of \$)	payments	revenues	+ /-	payments	revenues	+ /-
communications services	111.48	145.03	+ 33.55	173.82	174.83	+ 1.01

The volumes and types of foreign investment in the telecommunications sector:

- During 1993-1995 almost 100 million US dollars were invested in the development of the communications sector. (For the construction of international communications stations, long

distance digital relay stations for 14 oblasts in Ukraine, cellular communications for 11 Ukrainian oblasts).

- A \$53.125 million US loan was received from the European Bank for Reconstruction and Development (ITUR Project).

According to the directives of the Complex Program for the Establishment of a Common National Communications System, the private sector in the communications industry should increase; licences will be issued for new types of communications services; foreign investment will be encouraged; and the state sector will be reduced accordingly.

1. The Ukrainian Automobile Corporation renders the following services:

- maintenance and repair of CIS-made automobiles as well as Toyota, Mercedes Benz, and Nissan automobiles;
- ensuring the safety of vehicles in parking lots;
- valuation of vehicles with respect to natural depreciation and technical condition, including collision damage;
- rendering assistance in the delivery of vehicles needing repairs to service stations.

2. The volume of services rendered in 1994 was 78, 297 million krb. in 1993 - 5, 944.7 million krb. (VAT not included).

Addition to 1):

(f) airport passenger service, cargo processing service, mail, and baggage service; (g) involving aviation in other branches of economic activity.

Addition to 2). Revenues from main operations in 1994 were 4,618 billion krb. In 1993, revenues were - 455 billion krb.. Not taking price indexation and tariffs into account, revenues for 1994 have increased tenfold in comparison to revenues for 1993.

Addition to 3). The International Convention on Civil Aviation (Chicago, 1944); Aviation Code of Ukraine, Aviation Rules and Standards.

Addition to 4). Not expected in the near future.

In our opinion, it would be important to include a representative of the State Air Transportation Department of Ukraine to the Working Party of WTO.

The enterprises which are part of the Corporation provide services, basically, to supply the needs of consumers.

There are over 100 stores selling construction materials in this branch ministry and many of them organize deliveries for purchased materials and also their assembly and installation.

With the aim of satisfying consumer needs, the proportion of mass consumer goods produced was increased, such as roofing tiles, thermal and sound insulating linoleum, raised print wallpaper, glass for various makes of automobiles including imported automobiles, sets of bathroom fixtures and plumbing supplies.

Establishing limits on emissions and dumping of polluting substances and on the disposal of wastes according to the Cabinet of Ministers of Ukraine Decree No. 18 of the January 13, 1992 "On Approving Procedures for Determining and Levying Payments for Environmental Pollution and Provisions on the Republican Non-Budgetary Fund for Environmental Protection" and the temporary instruction "On Procedures for Developing, Establishing and Reviewing and also Reporting of the Limits on Emission and Dumping of Polluting and the Disposal of Wastes".

Carrying out an environmental assessment according to the Law of Ukraine "On Environmental Assessment", which regulates the implementation of the state environmental assessment of all projects irrespective of whether they are developed and implemented by domestic or foreign firms.

## V. BILATERAL AND FREE-TRADE AGREEMENTS

Question 18n.

As stated in the Working Party, Australia considers that Ukraine will have difficulty justifying some of its preferential trade under either Article I or Article XXIV of the GATT. Given that Ukraine has several such preferential trade agreements with neighbouring countries which are also not members of the WTO and therefore these agreements have not been reviewed by the WTO, Australia considers that the free trade agreements to which Ukraine is party should be notified to the Accession Working Party. If Ukraine was to continue granting selective or asymmetrical tariff preferences under the framework of bilateral agreements which fall short of being full free trade agreements in the GATT Article XXIV sense, it would be in breach of Article I of the GATT. It is therefore necessary that we have the opportunity to examine the extent to which this may be the case.

Reply 18n.

The Free Trade Agreement between Ukraine and Russia came into effect on 21 February 1994.

According to this Agreement the Parties do not apply duties or any equivalent charges or taxes, with the exception of goods, to which the national legislation on quotas and licensing as well as export tariff regulations apply.

During the period that has passed since the Agreement came into force, Ukraine and Russia have substantially liberalized their legislation as far as the foreign trade is concerned.

Russia has abolished non-tariff export regulations and in Ukraine there are only three groups of goods subject to quotas and licensing.

Russia has not yet abolished duty on export to Ukraine but the Agreement on the Implementation of Free Trade signed on February 8, 1995 between the Government of Ukraine and the Government of Russian Federation, provides for the abolition of exceptions which exist at the present time, in stages (quotas and licensing on the part of Ukraine and tariff export regulation on the part of Russia).

Neither party applies import duties to goods produced or originating from the territory of the other Party.

In general, the Free Trade Zone, established within the customs territories of Ukraine and Russia, is in compliance with the provisions of Article XXIV of GATT.

As far as the Agreement on Free Trade between Ukraine and Belarus is concerned it has not come into effect since it has not been ratified by the legislative organs of both Parties.

The Agreement on Establishing the Russia-Belarus-Kazakhstan Customs Union has not been ratified by any Member to this Agreement.

Upon this Agreement coming into effect and being implemented, the negotiation process between Ukraine, on the one hand, and the Customs Union, on the other hand, on the Agreement on Free Trade will commence and the Agreement with Russia will be annulled.

Uzbekistan, Kirgizstan and Kazakhstan have signed an Agreement on Establishing an Economic Union, which foresees the establishment in stages of a Free Trade Zone, Customs Union etc. So far it has dealt only with the implementation of the first stage of free trade. Therefore there are no obstacles for free trade between Ukraine and Uzbekistan at the present time.

Intergovernmental agreements on free trade between the Government of Ukraine and the governments of the Republics of Uzbekistan, Kazakhstan were signed on December 29, 1994, in Tashkent and on 17 September 1994 in Alma-Ata respectively.

These agreements constitute a long-term strategic course in the promotion of trade and economic relations between Ukraine and the Republics of Uzbekistan and Kazakhstan. Their foundation was laid by the Multilateral Agreement on Establishing Free Trade Zone, which was signed by the Heads of the State of CIS countries.

In accordance with Ukrainian legislative procedures the above-mentioned agreements are subject to ratification by the Supreme Rada of Ukraine.

The Department of Territorial Economic Relations with Central Asian countries and the Transcaucasus has prepared and submitted the documents (explanatory notes and the letters of concordance with relevant Ukrainian ministries and departments) concerning further ratification of the Agreement on Free Trade between the Government of Ukraine and the Government of the Republic of Uzbekistan and the Agreement on Free Trade between the Government of Ukraine and the Government of the Republic of Kazakhstan, on 18 January 1995.

In our opinion the signing of the Trilateral Agreement on the Joint Customs Union between the Russian Federation, the Republic of Kazakhstan and the Republic of Belarus, may cause the introduction of supplementary material and changes to the Agreement on Free Trade between the Government of Ukraine and the Government of the Republic of Kazakhstan.

Note: Text of the Agreements on Free Trade between the Government of Ukraine and the Governments of the Republics of Kazakhstan and Uzbekistan are enclosed.

Question 19n.

Also as stated in the Working Party, Ukraine would be expected to abide unconditionally by Article I of the GATT in respect of WTO members with which it does not have full free trade agreements covered by Article XXIV. In that context, what steps will Ukraine take to ensure that it extends its "MFN (beneficial)" tariff rate (column 2) to Israel and South Africa as to other WTO members, before acceding to the WTO?

Reply 19n.

At the present time the Agreements on Trade and Economic Cooperation with Israel and the Republic of South Africa have been signed but not ratified by the Supreme Rada of Ukraine. The establishment of the MFN will follow their signing.

Question 20n.

Please provide an overview paper that sets out progress on privatization to March 1995, including relevant figures cited by Mme Pavlikovska on 28/2/95 with reference to:

- small enterprises
- medium enterprises
- large-scale enterprises

Additional information is also requested on how privatization is proceeding, with regard to:

- Agricultural-Industrial enterprises
- Industrial conglomerates and enterprises
- Farming
- Retail and wholesale merchandise enterprises
- Services sector enterprises

Reply 20n.

See Reply 3n.

Question 21n.

Please provide details on the following elements of the privatization program:

- the share voucher system or 'certification drive';
- tax provisions/exemptions applied to privatized enterprises;
- loan assistance for privatized enterprises;
- existing bankruptcy legislation;
- liabilities and acquired debt/assets of newly privatized enterprises;
- management of privatized enterprises and, in particular, state participation in the 'management entities' of enterprises in the process of privatization;
- production plans and targets for non-privatized, privatized and mixed capital enterprises.

Reply 21n.

See Reply 3n.

Question 22n.

Please summarize the main features of the four resolutions and draft laws cited on page 7 of WT/L/20 which are intended to implement the Resolution of the Supreme Rada of 29 July 1994, "On Perfection of the Mechanism of Privatization and Strengthening of Control over its Implementation".

Reply 22n.

See Reply 3n.

Question 23n.

Please provide a comprehensive list of Agriculture enterprises (private, state and collective) involved in foreign trade, including details on both the types and volume of products exported.

Reply 23n.

About 3,757 state-owned trade and public catering enterprises have been privatized as of October 1, 1994. During the same period 179 state-owned agricultural enterprises were privatized which accounted for 13 percent of their total number. A higher rate of privatization was observed in the food industry. Thus, in the milk canning industry, cigarette, vegetable oil and beer production, approximately half of the enterprises have been privatized.

The system of the Ministry of Agriculture and Food includes the following state trading organisations:

Ukrtekhagroservis	exports - agricultural products
	imports - agricultural equipment - 70%
	- fuel and lubricants - 20%

Ukrprodresursyrovyna	exports - dairy and meat products
	imports - material and technical supplies for the processing industry - 30%

Ukragrokhim	exports - agricultural products
	imports - herbicides and pesticides - 70%

91 industrial complexes wholesaling and retailing fruit and vegetables:

exports	- potatoes
	- fruit
	- vegetables
imports	- fruit - 5%
	- vegetables

In 1995, 18 of 109 fruit and vegetable complexes were privatized. The rest are planned to be privatized by the 31.12.1996.

The concern Ukrtekhagroservis and the association Ukragrokhim are planned to be privatized through auction by the year 2000.

Also see Reply 3n.